Security Council

Sixty-third year

Provisional

5902nd meeting

Monday, 2 June 2008, 3.15 p.m.
New York

President:	Mr. Khalilzad	(United States of America)
Members:	Belgium	Mr. Verbeke
	Burkina Faso	Mr. Tiendrébéogo
	China	Mr. La Yifan
	Costa Rica	Mr. Ballestero
	Croatia	Mr. Jurica
	France	Mr. Lacroix
	Indonesia	Mr. Kleib
	Italy	Mr. Spatafora
	Libyan Arab Jamahiriya	Mr. Dabbashi
	Panama	Ms. Jácome
	Russian Federation	Mr. Kuzmin
	South Africa	Mr. Sangqu
	United Kingdom of Great Britain and Northern Ireland	Ms. Pierce
	Viet Nam	Mr. Hoang Chi Trung

Agenda

The situation in Somalia

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

08-36123 (E)

The meeting was called to order at 3.15 p.m.

Adoption of the agenda

The agenda was adopted.

The situation in Somalia

The President: I should like to inform the Council that I have received letters from the representatives of Australia, Canada, Denmark, Greece, Japan, the Netherlands, Norway, the Republic of Korea, Somalia and Spain, in which they request to be invited to participate in the consideration of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the consideration of the item, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Duale (Somalia) took a seat at the Council table; the representatives of the other aforementioned countries took the seats reserved for them at the side of the Council chamber.

The President: The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them document S/2008/351, which contains the text of a draft resolution submitted by Australia, Belgium, Canada, Croatia, Denmark, France, Greece, Italy, Japan, the Netherlands, Norway, Panama, the Republic of Korea, Spain, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

It is my understanding that the Council is ready to proceed to the vote on the draft resolution before it. Unless I hear any objection, I shall put the draft resolution to the vote.

There being no objection, it is so decided.

I shall now give the floor to those members of the Council who wish to make statements before the voting.

Mr. Kleib (Indonesia): Having a long-standing history of cooperation with the friendly country of Somalia, Indonesia has always joined others in assisting Somalia in meeting the major challenges that have afflicted its stability and security for almost 17 years now. My delegation would therefore like to reiterate that Indonesia fully supports the request of Somalia — as reflected in the letter of the Transitional Federal Government to the President of the Council — for assistance from the international community in its efforts to address acts of piracy and armed robbery against ships off the coast of Somalia.

In attempting to formulate a positive response to the Somali request in the form of the draft resolution upon which the Council is about to take a decision, Indonesia is guided by the proposition that any draft should be formulated in consistency with two fundamental principles.

First, the draft resolution shall be consistent with international law, particularly the United Nations Convention on the Law of the Sea (UNCLOS) of 1982, and shall not envisage any modification of the existing, carefully balanced international law of the sea, which is encapsulated in the constitution of the ocean, that is, UNCLOS, which was brought into being after decades of negotiation. It shall also not become a basis of customary international law for the repression of piracy and armed robbery at sea. Actions envisaged in the draft resolution shall only apply to the territorial waters of Somalia, based upon its prior consent.

Secondly, the draft resolution must address solely the specific situation of piracy and armed robbery off the coast of Somalia, as requested by the Somali Government.

Like Somalia and most other Members of the United Nations, Indonesia is a faithful party to UNCLOS, of 1982. Consequently, we have legal obligations to preserve the rights, obligations and responsibilities of Member States derived from it, as those were carefully negotiated in order to ensure, in a balanced manner, the interest of coastal and user States. A burden of responsibility rests upon us all to maintain the Convention's integrity and sanctity. Thus, it is our duty to voice strong reservations if there are actions envisaged by the Council or any other forum that could lead to modifying, rewriting or redefining UNCLOS, of 1982.

Ample safeguards, therefore, need to be imbedded, ensured and maintained. We are pleased in this regard that that is reflected in the formulation of paragraph 9 of the draft resolution (S/2008/351), which states, inter alia,

> "That the authorization provided in this resolution ... shall not affect the rights or obligations or responsibilities of Member States under international law, including any rights or obligations under the Convention, ... and ... it shall not be considered as establishing customary international law."

> The constitution of the ocean, which provides guiding principles for all activities pertaining to the use of the sea and ocean affairs, including international cooperation for the repression of piracy and armed robbery against vessels, is thus not modified, rewritten or redefined. It is in the interests of all that any actions against illegal or criminal acts shall not violate existing laws and norms.

We are mindful of the specific situation of Somalia. The continued political instability that has constantly faced that country has led to the inability of its law enforcement to maintain stability and security. That situation occurs not only on its mainland but also extends to the waters off the coast of Somalia. Thus, we understand that the unique situation of Somalia requires an exceptional measure by the international community to deal with the problem of piracy and armed robbery against vessels. In that regard, the request and consent of the Somali Government serves as the legal basis for the Council to formulate appropriate responses within the parameters of international law, in particular UNCLOS, of 1982.

While we are mindful that piracy and armed robbery at sea would affect the safety of international navigation, we constantly are of the view that the Council needs to exercise caution in trying to address such acts in other parts of the globe. We are pleased in this context that such caution is exercised in paragraph 14, which reads as follows:

> "*Requests* the Secretary-General of the IMO to brief the Council on the basis of cases brought to his attention by the agreement of all affected coastal States and duly taking into account the existing bilateral and regional cooperative arrangements, on the situation with respect to piracy and armed robbery".

This caution, undoubtedly, once again reflects the unwavering commitment of the Council to uphold international law in spirit and in letter — nothing more, nothing less. Indonesia strongly believes that the principle of respect for sovereignty and territorial integrity, as enshrined in the Charter, has to be espoused by the Council at all times. We consider that in exercising its mandate for the maintenance of international peace and security, it is possible for the Council to act without having to challenge the integrity of international law; that can certainly be done. Those two objectives are mutually reinforcing, not mutually exclusive. The stability and predictability of the international system that we all treasure are ensured as long as those two objectives continue to serve us in guiding our work. Today, the Council will shortly confirm that that is the case.

As it stands, we view that the current text has accommodated those two fundamental principles, as my delegation stated earlier. Those are: consistency with UNCLOS; and the specific situation of piracy and armed robbery off the coast of Somalia. After all, the text is first and foremost about Somalia. It is about how the Council, together with the international community, can assist Somalia to fight that crime. This text will ensure that Somalia will be the beneficiary of our common efforts.

Before concluding my remarks, I wish to express my delegation's gratitude for the understanding shown by all members of the Council. The spirit of cooperation and resourcefulness exercised by the sponsors has led us to this consensus text that meets the needs and legitimate interests of all members of the Council. For those pertinent reasons, my delegation is now ready to support it.

The President: I now put to the vote the draft resolution contained in document S/2008/351.

A vote was taken by show of hands.

In favour:

> Belgium, Burkina Faso, China, Costa Rica, Croatia, France, Indonesia, Italy, Libyan Arab Jamahiriya, Panama, Russian Federation, South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Viet Nam

The President: There were 15 votes in favour. The draft resolution has been adopted unanimously as resolution 1816 (2008).

I shall now call on those members of the Council who wish to make statements following the voting.

Mr. Hoang Chi Trung (Viet Nam): First of all, Sir, my delegation would like to congratulate you and the United States of America on your assumption of the presidency of the Council for this month. We are convinced that under your stewardship the Council will accomplish its duties in an efficient manner.

We wish also to express our deep appreciation to the United Kingdom for its service to the Council last month as it assumed the Council presidency.

Viet Nam shares the concern of the international community over acts of piracy and armed robbery against vessels in the waters off the coast of Somalia, which pose a great threat to international navigation and the delivery of humanitarian aid to Somalia. My country is fully committed to fighting against piracy at sea and always supports international cooperation on anti-piracy in conformity with the provisions of international law and the 1982 United Nations Convention on the Law of the Sea (UNCLOS). The resolution drawn up and adopted at the request of and with the consent of the Transitional Federal Government of Somalia provides for cooperative activities to combat piracy and armed robbery in the waters adjacent to Somalia under the conditions sanctioned by UNCLOS.

For those reasons, Viet Nam voted in favour of the resolution and wishes to reaffirm that the resolution shall not be interpreted as allowing any action that is contrary to international law, the Charter and the 1982 United Nations Convention on the Law of the Sea to be taken within the maritime areas under the jurisdiction of a coastal State.

Mr. Dabbashi (Libyan Arab Jamahiriya) (*spoke in Arabic*): Allow me at the outset to congratulate you, Sir, on your assumption of the presidency of the Council for this month; I wish you every success. I would like to commend the delegation of the United Kingdom for the excellent manner in which they conducted the Council's work last month.

I would like to place on record that my delegation voted in favour of the resolution that we have just adopted on the understanding that the resolution relates to piracy in the waters under Somalia's sovereignty and is in response to a request by the Government of Somalia. The resolution does not include any provision that would touch on the sovereignty of other countries or run counter to the principles of international law or the law of the sea.

Mr. Sangqu (South Africa): We congratulate you, Sir, on assuming the presidency of the Security Council, and we also congratulate the delegation of the United Kingdom on its excellent stewardship of the Council during the month of May.

We welcome the adoption of resolution 1816 (2008) today. In negotiating and agreeing to the resolution, we were guided by the fact that it limits itself to the situation in Somalia. We should be clear that it is the situation in Somalia, not piracy in and of itself, that constitutes a threat to international peace and security. Piracy is a symptom of the situation in Somalia.

Furthermore, the resolutions of this Council must respect the United Nations Convention on the Law of the Sea. The Convention remains the basis for cooperation between States on the issue of piracy.

Most importantly, the Council should not lose focus on the bigger issue in Somalia, specifically the need to address the political, security and humanitarian situation on the ground. In that regard, we welcomed the adoption of resolution 1814 (2008) last month. That resolution sent a signal to the people of Somalia that the international community is serious about assisting them in resolving their conflict.

We reiterate the Council's willingness to consider at the appropriate time a peacekeeping operation to take over the African Union Mission in Somalia once there is progress in the political process and improvement in the security situation on the ground, as provided for in resolution 1814 (2008).

We are pleased that the Security Council's visit to Africa has begun with a discussion on Somalia. We hope that the visit will provide impetus to the ongoing international efforts to resolve the conflict in Somalia.

Mr. La Yifan (China) (*spoke in Chinese*): China wishes to congratulate you, Sir, on your assumption of the presidency of the Security Council this month. We wish to express our gratitude and appreciation to Ambassador Sawers of the United Kingdom for his

outstanding work during his presidency of the Council last month.

China has always respected the sovereignty, independence and territorial integrity of Somalia. China supports the process of national reconciliation in Somalia and appreciates the unremitting efforts of its Government and people to achieve peace and stability.

After 17 years of civil war, the peace that the people of Somalia have been anxiously awaiting remains elusive. That calls for the international community to focus its attention on Somalia as one of the hot spot issues in Africa.

The question of Somalia has an important place on the agenda of the Security Council. The Council's mission to Africa landed on African soil yesterday and will soon be on its way to Djibouti to start addressing the question of Somalia. That demonstrates fully the importance that members of the Security Council attach to the question of Somalia. The Security Council should increase its attention to and input into the question of Somalia.

The rise of piracy on the territorial waters of Somalia in recent years constitutes a grave threat to the political and peace processes of Somalia and the international efforts for humanitarian relief. It interferes with the safety and security of international shipping. On many occasions, the Transitional Federal Government of Somalia has sent letters to the Security Council calling for the Council's assistance in combating piracy. The international community broadly supports that reasonable request from Somalia and is in favour of the Security Council adopting a resolution to authorize Member States to assist in combating piracy. China endorses that position and supports the prompt adoption of a relevant resolution in the Security Council.

Meanwhile, as the question of piracy touches upon sensitive issues of international law and touches closely upon the rights and interests of States Members of the United Nations in the oceans, the Security Council must therefore act with great prudence. Its actions should facilitate the international community's assistance to Somalia in combating piracy, on the one hand, and avoid negative consequences on the other.

Therefore, we maintain that the relevant resolution must be based on the consent of the countries concerned and in line with the wishes of the Government and the people of Somalia. It should apply only to the territorial waters of Somalia and not be expanded to cover other regions. It must comply with the United Nations Convention on the Law of the Sea and should not conflict with existing international law.

Based on the positions I have just mentioned, the Chinese delegation took an active part in the relevant informal consultations. Resolution 1816 (2008), adopted today, encapsulates to the greatest extent possible the common understanding that the Security Council has been able to achieve at present on the question of piracy in Somalia. It is a positive and prudent resolution; accordingly, China voted in favour of it.

In the course of its implementation, various problems may arise that will require the continued cooperation of the international community. China believes that the question of piracy in Somalia should not be seen as a stand-alone issue because it is merely an expression of the political contradictions in Somalia. The international community, while helping Somalia to combat piracy, should focus its attention on removing the root causes of the current situation in Somalia. China is ready to join the rest of the international community in its ongoing effort to promote a timely solution to the question of Somalia and the achievement of peace and stability in the Horn of Africa.

The President: The Security Council has thus concluded the present stage of its consideration of the item on its agenda. The Security Council will remain seized of the matter.

The meeting rose at 3.40 p.m.